

David R.E. Aladjem  
daladjem@downeybrand.com

February 1, 2008

**VIA HAND DELIVERY**

Vicky Whitney, Deputy Director  
Division of Water Rights  
State Water Resources Control Board  
1001 I Street  
Sacramento, CA 95814

Re: Temporary Urgency Application to Divert Unappropriated Water from the Santa Ana River (San Bernardino County)

Dear Ms. Whitney:

San Bernardino Valley Municipal Water District ("Valley District") and Western Municipal Water District of Riverside County ("Western") hereby submit to the State Water Resources Control Board ("State Board") an application for a temporary urgency permit to divert 45,000 acre-feet ("af") of unappropriated water from the Santa Ana River pursuant to Water Code sections 1425 *et seq.*

As you are well aware, Southern California is in a state of severe drought due to its record dry year in 2007 and reduced deliveries from both the Colorado River and the State Water Project. In water year 2006-2007, many areas of Southern California received less than 25% of their average rainfall amounts, prompting Governor Schwarzenegger to declare a state of emergency in Riverside County, citing reduced water availability for people and property in the county and more than \$4 million in crop damage. Reductions in water supply reliability from the State Water Project, exacerbated by the threat of levee failures in the Sacramento-San Joaquin Delta along with potential water supply impacts of climate change in California, underscore the need for water agencies to maximize the use of local water supplies when they are available. Under these circumstances, there is an urgent need for the diversion and conservation for use of unappropriated water that may be available from the Santa Ana River this spring.

Valley District and Western have applied for a long-term supply of up to 200,000 af of water from the Santa Ana River under Water Right Application Nos. 31165 and 31370. The State Board held a hearing on those applications during May, 2007, and is currently considering those applications; Valley District and Western do not intend this application to interfere with the State Board's deliberations.

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STATE WATER RESOURCES CONTROL BOARD

The recent rains in Southern California, however, provide Valley District and Western with an opportunity to divert water critically needed for their service areas. Our analysis of likely flows in the Santa Ana River indicates that there is approximately a 50% likelihood that there will be between 20,000 and 43,000 af available for diversion by Valley District and Western during the current water year after the satisfaction of all valid senior water rights. Given the uncertainty inherent in these estimates and the importance of a local water supply to Southern California, Valley District and Western are requesting a temporary permit to divert up to 45,000 af of unappropriated water from the Santa Ana River.

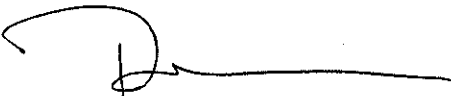
Valley District and Western believe that this water may be diverted and used without unreasonable impacts on fish and wildlife or instream beneficial uses. The proposed diversion of water will occur by means of improved coordination of the operations of Seven Oaks Dam, the Cuttle Weir and percolation in the Santa Ana River channel. No new facilities will be constructed and there will not be any expansion of existing facilities. In particular, because the project anticipates the use of the Santa Ana River channel for recharge to the extent possible without the loss of water, Valley District and Western believe that the project represents an appropriate balancing of the needs of fish and wildlife resources and the urgent need of Southern California for groundwater replenishment.

To facilitate processing of this application, we are providing the filing fee of \$410,000 for this permit to the State Board under separate cover via wire transfer and enclose a check for \$850 payable to to the Department of Fish & Game.

Valley District and Western stand ready to meet with you or your staff immediately to address any questions or concerns regarding this application. We know that the State Board understands the urgent need for water in Southern California and very much appreciate that you will process this application as quickly as possible.

Respectfully submitted,

DOWNEY BRAND LLP



David R.E. Aladjem

902693.2

Enclosures

cc: Dorothy Rice, Executive Director  
Steve Herrera, Chief, Permitting Section

**TYPE OR PRINT  
IN BLACK INK**  
(For instructions, see  
booklet: "How to File an  
Application to Appropriate  
Water in California")

## California Environmental Protection Agency

State Water Resources Control Board  
Division of Water Rights  
P.O. Box 2000, Sacramento, CA 95812-2000  
Tel: (916) 341-5300 Fax: (916) 341-5400  
www.waterrights.ca.gov

APPLICATION NO. \_\_\_\_\_  
(leave blank)

# APPLICATION TO APPROPRIATE WATER

## SECTION A: NOTICE INFORMATION

### 1. APPLICANT/AGENT

a.

	APPLICANT	ASSIGNED AGENT (if any)
Name	San Bernardino Valley Municipal Water District and Western Municipal Water District of Riverside County	David Aladjem Downey Brand LLP
Mailing Address (Valley District)	Valley District: P.O. Box 5906	555 Capitol Mall, 10th Floor
City, State & Zip	San Bernardino, CA 92412-5906	Sacramento, CA 95814
Mailing Address (Western)	Western: 450 Alessandro Blvd	
City, State & Zip	Riverside, CA 92508	
Telephone	Valley District: (909) 387-9200 Western: (951) 789-5000	(916) 444-1000
Fax	Valley District: (909) 387-9247 Western: (951) 780-3837	(916) 444-2100
E-mail		daladjem@downeybrand.com

### 2. OWNERSHIP INFORMATION (Please check type of ownership.)

- Sole Owner                       Limited Liability Company (LLC)                       General Partnership\*  
 Limited Partnership\*            Business Trust     Husband/Wife Co-Ownership  
 Corporation                         Joint Venture     Other Municipal Water Districts

\*Please provide a copy of your partnership agreement.

### 3. PROJECT DESCRIPTION (Provide a detailed description of your project, including, but not limited to, type of construction activity, area to be graded or excavated, and how the water will be used.)

See Attachment No. 1

### 4. PURPOSE OF USE, DIVERSION/STORAGE AMOUNT AND SEASON

a. PURPOSE OF USE (irrigation, domestic, etc.)	DIRECT DIVERSION				STORAGE		
	AMOUNT		SEASON OF DIVERSION		AMOUNT	SEASON OF COLLECTION	
	Rate (cfs or gpd)*	Acre-feet per year	Beginning date (month & day)	Ending date (month & day)	Acre-feet per year	Beginning date (month & day)	Ending date (month & day)

See Attachment No. 1

\*If rate is less than 0.025 cubic feet per second (cfs), use gallons per day (gpd).

- b. Total combined amount taken by direct diversion and storage during any one year will be 45,000 acre-feet.
- c. Reservoir storage is:  onstream  offstream  underground (If underground storage, attach Form APP-UGSTOR.)
- d. County in which diversion is located: San Bernardino County in which water will be used: San Bernardino and Riverside
- e. Assessor's Parcel Number(s): \_\_\_\_\_

**5. SOURCES AND POINTS OF DIVERSION/REDIVERSION**

a. Sources and Points of Diversion (POD)/Points of Rediversion (PORD):

- POD /  PORD # 1: Santa Ana River at Seven Oaks Dam tributary to the Pacific Ocean  
thence \_\_\_\_\_
- POD /  PORD # 1: Santa Ana River (Cuttle Weir) tributary to \_\_\_\_\_  
thence \_\_\_\_\_
- POD /  PORD # 2: Santa Ana River channel between the Cuttle Weir and E Street tributary to \_\_\_\_\_  
thence \_\_\_\_\_
- POD /  PORD # \_\_\_\_\_: \_\_\_\_\_ tributary to \_\_\_\_\_  
thence \_\_\_\_\_

See Attachment No. 1

b. State Planar and Public Land Survey Coordinate Description:

POD/ PORD #	CALIFORNIA COORDINATES (NAD 27)	ZONE	POINT IS WITHIN (40-acre Subdivision)	SECTION	TOWN- SHIP	RANGE	BASE AND MERIDIAN
PORD 1	Northing 222280.512, Easting 2272484.634		SW ¼ of SW ¼	4	1S	2W	San Bernardino
			¼ of ¼				
			¼ of ¼				
			¼ of ¼				

See Attachment No. 1

c. Name of the post office most often used by those living near the proposed point(s) of diversion:

U.S. Post Office – Mentone

**6. WATER AVAILABILITY**

a. Have you attached a water availability analysis for this project?  YES  NO

If NO, provide sufficient information to demonstrate that there is reasonable likelihood that unappropriated water is available for the proposed appropriation: See attached technical memorandum – Exhibit C

See Attachment No. 1

b. Is your project located on a stream system declared to be fully appropriated by the State Water Resources Control Board during your proposed season of diversion?  YES  NO

c. In an average year, does the stream dry up at any point downstream of your project?  YES  NO If YES, during which months?  Jan  Feb  Mar  Apr  May  Jun  Jul  Aug  Sep  Oct  Nov  Dec

d. What alternate sources of water are available if a portion of your requested diversion season must be excluded because water is not available for appropriation? (e.g., percolating groundwater, purchased water, etc.) Groundwater extractions from underground storage; State Water Project

See Attachment No. 1

**7. PLACE OF USE**

USE IS WITHIN (40-acre subdivision)	SECTION*	TOWNSHIP	RANGE	BASE & MERIDIAN	IF IRRIGATED	
					Acres	Presently cultivated?
¼ of ¼	See attachment 1					<input type="checkbox"/> YES <input type="checkbox"/> NO
¼ of ¼						<input type="checkbox"/> YES <input type="checkbox"/> NO
¼ of ¼						<input type="checkbox"/> YES <input type="checkbox"/> NO
¼ of ¼						<input type="checkbox"/> YES <input type="checkbox"/> NO
¼ of ¼						<input type="checkbox"/> YES <input type="checkbox"/> NO
¼ of ¼						<input type="checkbox"/> YES <input type="checkbox"/> NO
¼ of ¼						<input type="checkbox"/> YES <input type="checkbox"/> NO
Total:						

\*Please indicate if section is projected with a "(P)" following the section number.

See Attachment No. 1

**8. PROJECT SCHEDULE**  See Attachment No. 1

a. Project is:

- proposed. Year construction will begin: \_\_\_\_\_
- partially complete. Extent of completion: \_\_\_\_\_

complete. Year completed: \_\_\_\_\_

b. Year of first use: \_\_\_\_\_ Year water will be used to the full extent intended: \_\_\_\_\_

**SECTION B: MISCELLANEOUS DIVERSION INFORMATION**

**1. JUSTIFICATION OF AMOUNTS REQUESTED**

a.  IRRIGATION: Maximum area to be irrigated in any one year: \_\_\_\_\_ acres.

CROP	ACRES	METHOD OF IRRIGATION (sprinklers, flooding, etc.)	WATER USE (Acre-foot/Yr.)	SEASON OF WATER USE	
				Beginning date (month & day)	Ending date (month & day)

See Attachment No. \_\_\_\_\_

b.  DOMESTIC: Number of residences to be served: \_\_\_\_\_ Separately owned?  YES  NO

Number of people to be served: \_\_\_\_\_ Estimated daily use per person is: \_\_\_\_\_ gallons per day

Area of domestic lawns and gardens: \_\_\_\_\_ square feet

Incidental domestic uses: \_\_\_\_\_  
(dust control area, number and kind of domestic animals, etc.)

c.  STOCKWATERING: Kind of stock: \_\_\_\_\_ Maximum number: \_\_\_\_\_

Describe type of operation: \_\_\_\_\_  
(feedlot, dairy, range, etc.)

d.  RECREATIONAL: Type of recreation:  Fishing  Swimming  Boating  Other \_\_\_\_\_

e.  MUNICIPAL:

POPULATION <small>List for 5-year periods until use is completed</small>		MAXIMUM MONTH		ANNUAL USE		
Period	Population	Average daily use (gallons per capita)	Rate of diversion (cfs)	Average daily use (gallons per capita)	Acre-foot (per capita)	Total (acre-feet)

See Attachment No. \_\_\_\_\_

Month of maximum use during year: \_\_\_\_\_ Month of minimum use during year: \_\_\_\_\_

f.  HEAT CONTROL: Area to be heat controlled: \_\_\_\_\_ net acres  
 Type of crops protected: \_\_\_\_\_  
 Rate at which water is applied to use: \_\_\_\_\_ gpm per acre  
 Heat protection season will begin \_\_\_\_\_ and end \_\_\_\_\_  
 (month & day) (month & day)

g.  FROST PROTECTION: Area to be frost protected: \_\_\_\_\_ net acres  
 Type of crops protected: \_\_\_\_\_  
 Rate at which water is applied to use: \_\_\_\_\_ gpm per acre  
 The frost protection season will begin \_\_\_\_\_ and end \_\_\_\_\_  
 (month & day) (month & day)

h.  INDUSTRIAL: Type of industry: \_\_\_\_\_  
 Basis for determination of amount of water needed: \_\_\_\_\_

i.  MINING: Name of the claim: \_\_\_\_\_  Patented  Unpatented  
 Nature of the mine: \_\_\_\_\_ Mineral(s) to be mined: \_\_\_\_\_  
 Type of milling or processing: \_\_\_\_\_  
 After use, the water will be discharged into \_\_\_\_\_ (watercourse)  
 in \_\_\_\_\_ ¼ of \_\_\_\_\_ ¼ of Section \_\_\_\_\_, T \_\_\_\_\_, R \_\_\_\_\_, \_\_\_\_\_ B. & M.

j.  POWER: Total head to be utilized: \_\_\_\_\_  
 Maximum flow through the penstock: \_\_\_\_\_  
 Maximum theoretical horsepower capable of being generated by the works (cfs x fall ÷ 8.8): \_\_\_\_\_  
 Electrical capacity (hp x 0.746 x efficiency): \_\_\_\_\_ kilowatts at: \_\_\_\_\_ % efficiency  
 After use, the water will be discharged into \_\_\_\_\_ (watercourse)  
 in \_\_\_\_\_ ¼ of \_\_\_\_\_ ¼ of Section \_\_\_\_\_, T \_\_\_\_\_, R \_\_\_\_\_, \_\_\_\_\_ FERC No.: \_\_\_\_\_

k.  FISH AND WILDLIFE PRESERVATION AND/OR ENHANCEMENT: List specific species and habitat type that will be preserved or enhanced in Item 7a of Section C.

l.  OTHER: Describe use: Underground Storage and replenishment of groundwater basin for subsequent extraction. Please see Attachment 1, item A.4.

Basis for determination of amount of water needed: Capacity of Santa Ana River channel and Cuttle Weir facilities

**2. DIVERSION AND DISTRIBUTION METHOD**

a. Diversion will be by gravity by means of: Dam (Seven Oaks), Weir and gated intake (Cuttle Weir), and instream percolation (moveable point of diversion) (dam, pipe in unobstructed channel, pipe through dam, siphon, weir, gate, etc.)

b. Diversion will be by pumping from: \_\_\_\_\_  
 (sump, offset well, channel, reservoir, etc)

Pump discharge rate: \_\_\_\_\_  cfs or  gpd Horsepower: \_\_\_\_\_ Pump Efficiency: \_\_\_\_\_

c. Conduit from diversion point to first lateral or to offstream storage reservoir:

CONDUIT (pipe or channel)	MATERIAL (type of pipe or channel lining; indicate if pipe is buried or not)	CROSS-SECTION (pipe diameter, or ditch depth and top and bottom width) (inches or feet)	LENGTH (feet)	TOTAL LIFT OR FALL		CAPACITY (cfs, gpd or gpm)
				feet	+ or -	
Canal	Trapezoidal earth canal	Bottom Width = 12 feet, Depth = 6 feet, slopes of 1:1	4000	120	(-)	300 cfs

See Attachment No. 1

d. Storage reservoirs: (For underground storage, complete and attach form APP-UGSTOR)

RESERVOIR NAME OR NUMBER	DAM					RESERVOIR	
	Vertical height from downstream toe of slope to spillway level (feet)	Construction material	Length (feet)	Freeboard: dam height above spillway crest (feet)	Surface area when full (acres)	Capacity (acre-feet)	Maximum water depth (feet)

See Attachment No. 1

e. Outlet pipe: Complete for storage reservoirs having a capacity of 10 acre-feet or more.

RESERVOIR NAME OR NUMBER	OUTLET PIPE				
	Diameter (inches)	Length (feet)	Fall: vertical distance between entrance and exit of outlet pipe (feet)	Head: vertical distance from spill- way to entrance outlet pipe (feet)	Dead Storage storage below entrance of outlet pipe (acre-feet)

See Attachment No. 1

f. If water will be stored and the reservoir is not at the point of diversion, the maximum rate of diversion to off-stream storage will be 300 cfs. Diversion to offstream storage will be made by:  Pumping  Gravity

**3. CONSERVATION AND MONITORING**

a. What methods will you use to conserve water? Explain. See Attachment 1.

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

b. How will you monitor your diversion to be sure you are within the limits of your water right and you are not wasting water?  Weir  Meter  Periodic sampling  Other (describe)  
Daily visual inspection.

**4. RIGHT OF ACCESS**

a. Does the applicant own all the land where the water will be diverted, transported and used?  YES  NO  
If NO, I  do  do not have a recorded easement or written authorization allowing me access.

b. List the names and mailing addresses of all affected landowners and state what steps are being taken to obtain access: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

See Attachment No. 1

**5. EXISTING WATER RIGHTS AND RELATED FILINGS**

a. Do you claim an existing right for the use of all or part of the water sought by this application?  YES  NO  
If YES, please specify:  Riparian  Pre-1914  Registration  Permit  License  
 Percolating groundwater  Adjudicated  Other (specify) \_\_\_\_\_

b. For each existing right claimed, state the source, year of first use, purpose, season and location of the point of diversion (to within quarter-quarter section). Include number of registration, permit, license, or statement of water diversion and use, if applicable. \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

c. List any related applications, registrations, permits, or licenses located in the proposed place of use or that utilize the same point(s) of diversion? See attached.

\_\_\_\_\_

See Attachment No. 1

**6. OTHER SOURCES OF WATER**

Are you presently using, or do you intend to use, purchased water or water supplied by contract in connection with this project?  Yes  No If yes, please explain: \_\_\_\_\_

\_\_\_\_\_

**7. MAP REQUIREMENTS**

The Division cannot process your application without accurate information showing the source of water and location of water use. You must include a map with this application form that clearly indicates the township, range, section and quarter/quarter section of (1) the proposed points of diversion and (2) the place of use. A copy of a U.S.G.S. quadrangle/topographic map of your project area is preferred, and can be obtained from sporting goods stores or through the Internet at <http://topomaps.usgs.gov>. A certified engineering map is required when (1) appropriating more than three cfs by direct diversion, (2) constructing a dam which will be under the jurisdiction of the Division of Safety of Dams, (3) creating a reservoir with a surface area in excess of ten acres or (4) appropriating more than 1000 acre-feet per annum by underground storage. See the instruction booklet for more information.

See Attachment

Please see Maps attached to Application Nos. 31165 and 31370 (on file with the SWRCB).

**SECTION C: ENVIRONMENTAL INFORMATION**

**Note:** Before a water right permit may be issued for your project, the State Water Resources Control Board (SWRCB) must consider the information contained in an environmental document prepared in compliance with the California Environmental Quality Act (CEQA). This form is not a CEQA document. If a CEQA document has not yet been prepared for your project, a determination must be made of who is responsible for its preparation. If the SWRCB is determined to be responsible for preparing the CEQA document, the applicant will be required to pay all costs associated with the environmental evaluation and preparation of the required documents. Please answer the following questions to the best of your ability and submit with this application any studies that have been conducted regarding the environmental evaluation of your project.

**1. COUNTY PERMITS**

a. Contact your county planning or public works department and provide the following information:

Person contacted: David Lovell Date of contact: January 28, 2008

Department: Department of Public Works Telephone: (909) 387-7964

County Zoning Designation: San Bernardino

Are any county permits required for your project?  YES  NO If YES, check appropriate box below:

Grading permit  Use permit  Watercourse  Obstruction permit  Change of zoning

General plan change  Other (explain): \_\_\_\_\_

b. Have you obtained any of the required permits described above?  YES  NO

If YES, provide a complete copy of each permit obtained.

See Attachment No. \_\_\_\_\_

**2. STATE/FEDERAL PERMITS AND REQUIREMENTS**

a. Check any additional state or federal permits required for your project:

Federal Energy Regulatory Commission  U.S. Forest Service  U.S. Bureau of Land Management

U.S. Corps of Engineers  U.S. Natural Res. Conservation Service  Calif. Dept. of Fish and Game

State Lands Commission  Calif. Dept. of Water Resources (Div. of Safety of Dams)

Calif. Coastal Commission  State Reclamation Board  Other (specify) \_\_\_\_\_

b. For each agency from which a permit is required, provide the following information:

AGENCY	PERMIT TYPE	PERSON(S) CONTACTED	CONTACT DATE	TELEPHONE NO.

See Attachment No. \_\_\_\_\_

c. Does your proposed project involve any construction or grading-related activity that has significantly altered or would significantly alter the bed, bank, or riparian habitat of any stream or lake?  YES  NO

If YES, explain: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

See Attachment No. \_\_\_\_\_

d. Have you contacted the California Department of Fish and Game concerning your project?  YES  NO

If YES, name and telephone number of contact: \_\_\_\_\_



**3. ENVIRONMENTAL DOCUMENTS**

- a. Has any California public agency prepared an environmental document for your project?  YES  NO
- c. If YES, submit a copy of the latest environmental document(s) prepared, including a copy of the notice of determination adopted by the California public agency. Public agency: \_\_\_\_\_
- d. If NO, check the appropriate box and explain below, if necessary:
  - The applicant is a California public agency and will be preparing the environmental document.\*
  - I expect that the SWRCB will be preparing the environmental document.\*\*
  - I expect that a California public agency other than the State Water Resources Control Board will be preparing the environmental document.\* Public agency: \_\_\_\_\_
  - See Attachment No. 1
    - \* **Note:** When completed, submit a copy of the final environmental document (including notice of determination) or notice of exemption to the SWRCB, Division of Water Rights. Processing of your application cannot proceed until these documents are submitted.
    - \*\* **Note:** CEQA requires that the SWRCB, as Lead Agency, prepare the environmental document. The information contained in the environmental document must be developed by the applicant and at the applicant's expense under the direction of the SWRCB, Division of Water Rights.

**4. WASTE/WASTEWATER**

- a. Will your project, during construction or operation, (1) generate waste or wastewater containing such things as sewage, industrial chemicals, metals, or agricultural chemicals, or (2) cause erosion, turbidity or sedimentation?  YES  NO  
 If YES, or you are unsure of your answer, explain below and contact your local Regional Water Quality Control Board for the following information (See instruction booklet for address and telephone no.):  
 \_\_\_\_\_  
 \_\_\_\_\_  
 See Attachment No. \_\_\_\_
- b. Will a waste discharge permit be required for your project?  YES  NO  
 Person contacted: \_\_\_\_\_ Date of contact: \_\_\_\_\_
- c. What method of treatment and disposal will be used? \_\_\_\_\_  
 \_\_\_\_\_  
 See Attachment No. \_\_\_\_

**5. ARCHEOLOGY**

- a. Have any archeological reports been prepared on this project?  YES  NO
  - b. Will you be preparing an archeological report to satisfy another public agency?  YES  NO
  - c. Do you know of any archeological or historic sites located within the general project area?  YES  NO
- \_\_\_\_\_
- See Attachment No. 3

**6. ENVIRONMENTAL SETTING**

- Attach three complete sets of color photographs, clearly dated and labeled, showing the vegetation that exists at the following three locations:
- Along the stream channel immediately downstream from the proposed point(s) of diversion.
  - Along the stream channel immediately upstream from the proposed point(s) of diversion.
  - At the place(s) where the water is to be used.
- See Attachment No. 2 (Photographs of the points of diversion and rediversion as well as a map showing the places where the water will be used are on file with the SWRCB as part of the files for Application Nos. 31165 and 31370)



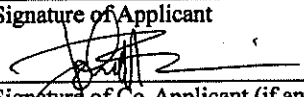
**SECTION D: SUBMITTAL FEES**

Calculate your application filing fee using the "Water Right Fee Schedule Summary" that was enclosed in the application packet. The "Water Right Fee Schedule Summary" can also be viewed at the Division of Water Rights' website (www.waterrights.ca.gov).

A check for the application filing fee, payable to the "Division of Water Rights" and an \$850 check for the environmental review fee, payable to the "California Department of Fish and Game," must accompany this application. All applicable fees are required at the time of filing. Your application will be returned to you if it is not accompanied by all required fees.

**SECTION E: DECLARATION AND SIGNATURE**

I declare under penalty of perjury that all information provided is true and correct to the best of my knowledge and belief. I authorize my agent, if I have designated one above, to act on my behalf regarding this water right application.

Signature of Applicant	Title or Relationship	Date
	GENERAL MGR	JAN 31, 2008
Signature of Co-Applicant (if any)	Title or Relationship	Date

**"APPLICATION TO APPROPRIATE WATER" CHECKLIST**

**Before you submit your application, be sure to:**

- Answer each question completely in Sections A, B, and C.**
- Number and include all necessary attachments.**
- Include a legible map that meets the requirements discussed in the instruction booklet (Item B6).**
- Include the Water Availability Analysis or sufficient information to demonstrate that there is reasonable likelihood that unappropriated water is available for the proposed appropriation (Item A6).**
- Include three complete sets of color photographs of the project site (Item C6).**
- Enclose a check for the required fee, payable to the Division of Water Rights, as specified in Section D.**
- Enclose a \$850 check for the environmental review fee, payable to the Department of Fish and Game, as specified in Section D.**
- Sign and date the application in Section E.**

**Send the original and one copy of the entire application to:**

**State Water Resources Control Board  
Division of Water Rights  
P.O. Box 2000  
Sacramento, CA 95812-2000**

## ATTACHMENT ONE

### SECTION A: NOTICE INFORMATION

#### 3. Project Description

Applicants San Bernardino Valley Municipal Water District ("Valley District") and Western Municipal Water District of Riverside County ("Western") (collectively referred to as "Valley District and Western" or as "Applicants") are regional water agencies that manage groundwater and surface water supplies in portions of San Bernardino and Riverside Counties. Valley District and Western have jointly filed two applications to appropriate up to 200,000 af of water from the Santa Ana River for direct use and storage. The State Water Resources Control Board ("SWRCB") held a hearing on the two applications in May 2007 and has not yet issued a draft decision.

Under this application for a temporary permit, Valley District and Western seek to divert up to 45,000 af of water from the Santa Ana River, commencing on the date on which a temporary permit is issued by the SWRCB and continuing until the date on which the SWRCB issues one or more permit(s) pursuant to Water Right Application Nos. 31165 and 31370, in order to put to beneficial use water that would otherwise waste to the Pacific Ocean. Under the temporary permit, Valley District and Western will enter into an agreement with Orange County Flood Control District, Riverside County Flood Control and Water Conservation District, and San Bernardino County Flood Control District (collectively, the "Local Sponsors") and the U.S. Army Corps of Engineers (the "Corps of Engineers") under which the Corps of Engineers and the Local Sponsors will, within the scope of current flood control operations at Seven Oaks Dam, limit the rate of release of water detained in regulatory storage behind Seven Oaks Dam so as to allow Valley District and Western to redivert the released water as follows: (i) rediversion through the Cuttle Weir to the Santa Ana River Spreading Grounds under the settlement and easement agreement between Applicants and the San Bernardino Valley Water Conservation District ("Conservation District"), which owns and operates the Cuttle Weir; and (ii) percolation of water from the Santa Ana River channel into and replenishment of the San Bernardino Basin Area between the Cuttle Weir and E Street. A January 24, 2008 letter from Valley District to the Corps of Engineers proposing such an arrangement is attached hereto for the SWRCB's reference as Exhibit A. A meeting to discuss this proposal was held among the Corps of Engineers, the Local Sponsors and the Applicants on January 31, 2008.

The rediversion of water by Valley District and Western pursuant to the temporary permit would be junior to the rights of Bear Valley Mutual Water Company *et al.* (up to 88 cfs on a "run of the river" basis) and the rights of the Conservation District pursuant to License No. 2831 (maximum diversion of 8,300 af from January 1 to May 31).<sup>\*</sup> Attached for the SWRCB's reference as

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<sup>\*</sup> The Conservation District also holds a water right pursuant to License No. 2832, which permits the Conservation District to divert up to 2,100 af from October 1 to December 31. Because the Applicants are not proposing to divert water during the season of diversion identified in License 2832, the rediversion of water pursuant to the temporary permit would not interfere with the Conservation District's rights under License 2832.

Exhibit B is a copy of the Daily Flow report for January 2, 2008, showing that the Conservation District had spread 1,226 af from October 1 to December 31. The Conservation District's right to spread water diverted from the Santa Ana River will, therefore, cease when the water year storage shown on the Daily Flow Report equals 9,526 af.

It is important to note that the redirection of water in the Santa Ana River channel between the Cuttle Weir and E Street may be accomplished without any interference with the rights of either Bear Valley Mutual Water Company *et al.* or the Conservation District because the moveable point of diversion described above is located downstream of the points of diversion used by Bear Valley Mutual Water Company *et al.* and the Conservation District. Thus, the redirection of water at the moveable point of diversion will commence immediately upon approval of this application by the SWRCB.

The proposed diversion of water will occur by means of improved coordination of the operations of Seven Oaks Dam, the Cuttle Weir and percolation in the Santa Ana River channel. No new facilities will be constructed and there will not be any expansion of existing facilities. In particular, because the project anticipates the use of the Santa Ana River channel for recharge to the extent possible without the loss of water, Valley District and Western believe that the project represents an appropriate balancing of the needs of fish and wildlife resources and the urgent need of Southern California for groundwater replenishment.

#### **4. Purpose of Use, Diversion/Storage Amount and Season**

As described above, under this temporary permit Valley District and Western would redirect water regulated for flood control purposes by the Corps of Engineers and the Local Sponsors at Seven Oaks Dam. Valley District and Western would redirect water from the Santa Ana River through the Cuttle Weir at the current capacity of the Cuttle Weir (estimated to be 300 cfs, with a monthly spreading capacity of 12,000 af) commencing on the date on which the SWRCB grants the temporary permit (subject to the prior rights of Bear Valley Mutual Water Company *et al.* and the Conservation District) and continuing until the date on which the SWRCB issues one or more permit(s) pursuant to Water Right Application Nos. 31165 and 31370, for underground storage in the San Bernardino Basin Area. Valley District and Western would also redirect water from the Santa Ana River at a moveable point of diversion located in the Santa Ana River channel between the Cuttle Weir and E Street. Redirection in the Santa Ana River channel would occur at a maximum rate of 38 cfs, also commencing on the date on which the SWRCB grants the temporary permit (subject to the prior rights of Bear Valley Mutual Water Company *et al.* and the Conservation District) and continuing until the date on which the SWRCB issues one or more permit(s) pursuant to Water Right Application Nos. 31165 and 31370. The total quantity of water redirected at the Santa Ana River Spreading Grounds and in the Santa Ana River channel moveable point of diversion would be 45,000 af. The allocation of spreading between these two locations would be determined based on the use of the Santa Ana River Spreading Grounds by the Conservation District, the operation of Seven Oaks Dam for flood protection, and the diversions by Bear Valley Mutual Water Company *et al.*

Water redirected by the Applicants would be used to replenish groundwater supplies in the San Bernardino Basin Area (the groundwater aquifer that underlies much of the San Bernardino Valley). Water stored in the San Bernardino Basin Area is then extracted by a large number of

pumpers for domestic, irrigation, municipal and industrial, heat control, frost protection and recreation uses. Groundwater extracted from the San Bernardino Basin Area is delivered throughout the Applicants' service areas.

## **5. Sources and Points of Diversion/Rediversion**

See responses to Items 3 and 4 above.

## **6. Water Availability**

Valley District and Western's technical analysis, attached hereto as Exhibit C, indicates that for the current water year, there is approximately a 50% likelihood that there will be at least 20,000 af available for diversion by Valley District and Western, and that up to approximately 43,000 af may be available. Given the uncertainty inherent in these estimates and the importance of a local water supply to Southern California, Valley District and Western are requesting a temporary permit to divert up to 45,000 af. This analysis was based upon a compilation of precipitation data for the 2007-2008 water year and statistical regression analyses of annual streamflow in the Santa Ana River at the Mentone Gaging Station and precipitation at the San Bernardino County Hospital Station. The diversion by the Applicants of water from the Santa Ana River for beneficial use under a permit pursuant to this application would avoid significant waste of water to the Pacific Ocean. In light of current drought conditions in Southern California, the need for Valley District and Western to divert water temporarily under these circumstances is urgent.

## **7. Place of Use**

As described above in Item 4, water rediverted by Valley District and Western at the Cuttle Weir will be spread in the Santa Ana River Spreading Grounds to replenish the San Bernardino Basin Area. Water rediverted by Valley District and Western at the moveable point of diversion located in the Santa Ana River channel between the Cuttle Weir and E Street would also replenish the San Bernardino Basin Area. Under the terms of the *Western Judgment (Western Municipal Water District of Riverside County et al. v. East San Bernardino County Water District et al., Riverside County Superior Court No. 78426, April 17, 1969)*, agencies located within both Valley District and Western's service areas may extract water from the San Bernardino Basin Area for use within their respective service areas. Thus, the place of use of water rediverted by Valley District and Western includes all lands within the Applicants' service areas. A map of both service areas is attached hereto as Exhibit D.

## **8. Project Schedule**

For purposes of this application for a temporary permit, the project consists of Valley District and Western's use of existing facilities to divert water from the Santa Ana River. Diversions will commence upon approval by the State Water Resources Control Board of a permit under this application, consistent with the senior water rights held by Bear Valley Mutual Water Company *et al.* and the Conservation District under License No. 2831. Diversions under a temporary permit will cease on the date on which the SWRCB issues one or more permit(s) pursuant to Water Right Application Nos. 31165 and 31370.

## **SECTION B: MISCELLANEOUS DIVERSION INFORMATION**

### **2. Diversion and Distribution Method**

As noted above, water will be diverted at Seven Oaks Dam in a manner consistent with flood control operations of the Dam and then rediverted to underground storage at the Cuttle Weir (thence to the Santa Ana River Spreading Grounds) or at the moveable point of diversion in the Santa Ana River channel between the Cuttle Weir and E Street. All diversions and rediversions will be by means of gravity. For additional details regarding underground storage, please see APP-UGSTOR.

### **3. Conservation and Monitoring**

#### **a. Water Conservation**

As noted above, water diverted by Applicants will be used to replenish groundwater supplies in the San Bernardino Basin Area. Within Applicants' service areas, the extraction of groundwater from the San Bernardino Basin Area is under the control of local water agencies and municipalities, most of which are signatories to the California Urban Water Conservation Council MOU and/or are implementing the Best Management Practices recommended by the Council. Both Valley District and Western have recently adopted integrated regional water management plans that include significant water conservation components.

The Western plan, which was adopted in October 2006, calls for encouraging further market penetration of ultra low flush toilets, high efficiency clothes washers and residential and commercial weather based irrigation controllers. In addition, Western is focusing on undertaking more in-depth measures relating to outdoor water conservation to allow smaller agencies to undertake cost-effective water conservation efforts.

The Valley District plan, which was adopted in December 2007 and includes the entire Upper Santa Ana River watershed, concludes that Best Management Practices 5 (Large Landscape Conservation Programs), 9 (Conservation Programs for Commercial, Industrial and Institutional) and 14 (Residential Ultra-Low Flush Toilet Replacement) have the greatest conservation potential. The plan calls for a regional water conservation feasibility study to develop conservation programs for implementation, a water conservation demonstration garden, a "smart" irrigation controller program and a model institutional water conservation makeover. Valley District will be taking a lead role in all of these projects.

#### **b. Monitoring**

Water released from Seven Oaks Dam is measured through the use of USGS Gage Nos. 11051499 (Santa Ana River at Mentone) and 11051502 (Santa Ana River Auxiliary Diversion). Water rediverted at the Cuttle Weir is measured through a Parshall flume in the diversion channel. Applicants have determined, through the use of modeling and field observations, that approximately 38 cfs is required to create hydraulic continuity between the Cuttle Weir and E Street (the approximate boundary of the San Bernardino Basin Area).

Consequently, Valley District and Western propose the following permit term to calculate the quantity of water spread in the San Bernardino Basin Area:

“Permittees’ redirection of water at the Cuttle Weir and at a moveable point of diversion located in the Santa Ana River channel between the Cuttle Weir and E Street shall be limited to a maximum of 45,000 af calculated as follows:

(a) If the difference between average daily releases from Seven Oaks Dam, as measured by the sum of average daily flows at USGS Gage Nos. 11051499 (Santa Ana River at Mentone) and 11051502 (Santa Ana River Auxiliary Diversion), and Permittees’ average daily redirections at the Cuttle Weir is less than 38 cfs, Permittees’ average daily redirection of water shall be deemed equal to the average daily release from Seven Oaks Dam.

(b) If the difference between average daily releases from Seven Oaks Dam, as measured by the sum of average daily flows at USGS Gage Nos. 11051499 (Santa Ana River at Mentone) and 11051502 (Santa Ana River Auxiliary Diversion), and Permittees’ average daily redirections at the Cuttle Weir is equal to or greater than 38 cfs, Permittees’ average daily diversion of water shall be deemed equal to the sum of Permittees’ average daily redirections at the Cuttle Weir plus 38 cfs.”

In addition, extractions from the San Bernardino Basin Area are monitored and reported to the Division of Water Rights pursuant to Water Code Section 4999 et seq. and are subsequently summarized and reported in the Annual Reports of Western-San Bernardino Watermaster. Valley District and Western anticipate that these annual reports will account for the diversion and spreading of water pursuant to the temporary permit.

#### **4. Right of Access**

Valley District and Western have entered into a Settlement Agreement, including an easement for access to and use of Conservation District facilities with the Conservation District, as set forth in the project description.

#### **5. Existing Water Rights and Related Filings**

c. Valley District and Western have jointly filed two applications to appropriate water from the Santa Ana River: (i) Application No. 31165, filed initially on September 27, 1991 (amended May 31, 1995), was processed after SWRCB Order WR 2000-12, which lifted the Declaration of Fully Appropriated Stream Systems for the Santa Ana River, and publicly noticed on January 11, 2002; and (ii) Application No. 31370, filed May 21, 2001 and publicly noticed on January 31, 2003. Together, these applications seek the right to divert up to 200,000 af of local water to help meet anticipated demands. The SWRCB held a hearing on May 2, 3, 4, 7 and 8, 2007 on these applications, and has not yet released a draft decision.



## **SECTION C: ENVIRONMENTAL INFORMATION**

### **3. Environmental Documents**

d. The project is exempt from review under the California Environmental Quality Act pursuant to 14 Cal. Code Regs. § 15301 (operation of existing facilities) because the project relies on improving the coordinated use of existing facilities within their current capacities rather than new facilities. As noted above, Seven Oaks Dam will be operated within the scope of existing procedures for flood control operations, rediversions at the Cuttle Weir will be made within the scope of current diversion capacity, and percolation at the moveable point of rediversion in the Santa Ana River channel will occur without alteration of the river channel.



Alan C. Lloyd, Ph.D.  
Agency Secretary



Arnold Schwarzenegger  
Governor

# State Water Resources Control Board

## Division of Water Rights

1001 I Street, 14<sup>th</sup> Floor ♦ Sacramento, California 95814 ♦ 916.341.5300  
Mailing Address: P.O. Box 2000 ♦ Sacramento, California 95812-2000  
FAX: 916.341.5400 ♦ www.waterrights.ca.gov

APPLICATION NO. \_\_\_\_\_  
(Leave blank)

### UNDERGROUND STORAGE SUPPLEMENT to APPLICATION TO APPROPRIATE WATER BY PERMIT

1. State amount of water to be diverted to underground storage from each point of diversion in item 3b of form APP.
  - a. Maximum Rate of diversions POD (1): 350 cfs, PORD (1): 300 cfs, PORD (2): 38 cfs.
  - b. Maximum Annual Amount 45,000 acre-feet

2. Describe any works used to divert to offstream spreading grounds or injection wells not identified in item 7 of form APP.

No additional works beyond that described in Section A.5 of the Application.

3. Describe spreading grounds and identify its location and number of acres or location of upstream and downstream limits if onstream.

The Santa Ana River Spreading Grounds are located downstream of Seven Oaks Dam on the alluvial fan of the Santa Ana River, and include approximately 64 acres of active recharge area. In addition, the project will replenish the San Bernardino Basin Area by means of recharge in the Santa Ana River channel between the Cuttle Weir and E Street.

4. State depth of groundwater table in spreading grounds or immediate vicinity:  
\_\_\_\_\_ feet below ground surface on \_\_\_\_\_ 19 \_\_ measured at a point located within the \_\_\_\_\_ ¼ of \_\_\_\_\_ ¼ of Section \_\_\_\_\_, T \_\_\_\_\_, R \_\_\_\_\_, \_\_\_\_\_ B&M

The depth to the groundwater table in the vicinity of the Santa Ana River Spreading Grounds and in the Santa Ana River channel between the Cuttle Weir and E Street varies from year to year as water supply and usage conditions change. A general discussion of the San Bernardino Basin Area can be found at pages 3.2-7 to 3.2-22 of the Draft EIR for Santa Ana River Water Right Applications for Supplemental Supply (copy on file with the SWRCB). The Applicants will be pleased to provide more specific information upon request by the SWRCB.

Additional copies of this form and water right information can be obtained at [www.waterrights.ca.gov](http://www.waterrights.ca.gov).

5. Give any historic maximum and or minimum depths to the groundwater table in the area.  
Location \_\_\_\_\_ Maximum \_\_\_\_\_ feet below ground surface on \_\_\_\_\_ (date)  
Location \_\_\_\_\_ Maximum \_\_\_\_\_ feet below ground surface on \_\_\_\_\_ (date)

The depth to the groundwater table in the San Bernardino Basin Area varies from year to year as water supply and usage conditions change. A general discussion of the San Bernardino Basin Area can be found at pages 3.2-7 to 3.2-22 of the Draft EIR for Santa Ana River Water Right Applications for Supplemental Supply (copy on file with the SWRCB). The Applicants will be pleased to provide more specific information upon request by the SWRCB.

6. Describe proposed spreading operation.

Water regulated and controlled by the flood control operations of Seven Oaks Dam will be rediverted by the Applicants at the Cuttle Weir and be conveyed to Santa Ana River Spreading Grounds for percolation into the San Bernardino Basin Area. In addition, water regulated and controlled by the flood control operations of Seven Oaks Dam will be released at controlled rates for percolation in the Santa Ana River channel between the Cuttle Weir and E Street. Water percolated in the Santa Ana River channel will replenish the San Bernardino Basin Area.

7. Describe location, capacity and features of proposed pretreatment facilities and/or injected wells.

None.

8. Reference any available engineering reports, studies, or data on the aquifer involved.

(a) *Geologic and Hydrologic Features of the San Bernardino Area California, United States Geological Survey Water Supply Paper 1419, dated 1963*

(b) *Annual Report of the Western-San Bernardino Watermaster, Western Municipal Water District et al. v. East San Bernardino County Water District et al., Superior Court of Riverside County, Case No. 78426*

(c) *Water Quality Control Plan, Santa Ana River Basins (8), California Regional Water Quality Control Board, Santa Ana Region*

9. Describe underground reservoir and attach a map or sketch of its location.

See description of San Bernardino Basin Area attached as Exhibit E and map attached as Exhibit F, both of which are on file with the SWRCB as part of the files for Application Nos. 31165 and 31370.

10. State estimated storage capacity of underground reservoir. 5.5 million acre-feet

11. Describe existing use of the underground storage reservoir and any proposed change in its use.

The San Bernardino Basin Area currently serves as a primary water supply source for municipal, industrial, domestic, irrigation, heat control, frost protection and recreation uses. No changes in use are proposed.

12. Describe the proposed method and location of measurement of water placed into and withdrawn from underground storage.

Water released from storage at Seven Oaks Dam is measured by the USGS Mentone and Auxiliary Diversion Gages in the Santa Ana River. Water rediverted for spreading in the Santa Ana River Spreading Grounds will be measured through a Parshall flume in the diversion channel downstream of the Cuttle Weir. Water rediverted for spreading in the Santa Ana River channel can be calculated based on gage readings at the USGS gages and diversions at the Cuttle Weir. A proposed permit term setting forth those calculations is included in response to Item B.3.b in the temporary application. In addition, extractions from the San Bernardino Basin Area are monitored and reported to the Division of Water Rights pursuant to Water Code Section 4999 et seq. and are subsequently summarized and reported in the Annual Reports of Western-San Bernardino Watermaster. Valley District and Western anticipate that these annual reports will account for the diversion and spreading of water pursuant to the temporary permit.